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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,820	09/30/2003	Eran Steinberg	FN104-E	3065
30349	7590	10/09/2007	EXAMINER	
JACKSON & CO., LLP			LEE, JOHN W	
6114 LA SALLE AVENUE				
#507				
OAKLAND, CA 94611-2802			ART UNIT	PAPER NUMBER
			2624	
			NOTIFICATION DATE	DELIVERY MODE
			10/09/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/676,820	Applicant(s) STEINBERG ET AL.	
	Examiner John Wahnkyo Lee	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 and 11-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20040628, 20040630, 20060203</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 1 is generic to the following disclosed patentably distinct species:
 - I. Species corresponding to FIG. 2a that illustrates the creation of a dust map.
 - II. Species corresponding to FIG. 2b that illustrates alternative embodiment of the creation of a dust map.
 - III. Species corresponding to FIG. 9 that illustrates an adjustment of a dust map based on focal length.
 - IV. Species corresponding to FIG. 12 that illustrates a process of another embodiment.

The species are independent or distinct because the applicant discloses different embodiments for implementing the invention. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after

Art Unit: 2624

the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

2. Applicant's election without traverse of Species IV in the reply filed on 6 August 2007 is acknowledged. After reviewing the claims 1-42, the examiner does not agree

Art Unit: 2624

with the applicant that all of the claims 1-42 read on Species IV. Because claims 4-6, claims 11-26, and claims 27-44 have a claim limitation, "forming a statistical dust record including dust artifact regions based on ..." or "forming a statistical dust record including probabilities of dust artifact regions based on ...", which can read on Figure 2A and 2B that are groups as Species I and II. Moreover, "forming a statistical dust record including dust artifact regions based on ..." or "forming a statistical dust record including probabilities of dust artifact regions based on ..." are not generic claims that can read on Species IV. Therefore, the examiner will only examine claims 1-3 and 7-10 for further prosecution.

Information Disclosure Statement

3. An initialed and dated copies of Applicant's IDS form 1449, Paper No.- 20040628, 20040630, and 20060203 are attached to the instant Office action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 recites the limitation "probability determination". There is insufficient antecedent basis for this limitation in the claim. The examiner is not clear what the "probability determination" is trying to define or indicate. It is suggested to the applicant to clarify this claim limitation and fix it.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barkan (US 2003/0174902) in view of Newman et al. (US 2001/0039804).

Regarding claim 1, Barkan discloses a method of automatically determining a need to service a digital image acquisition system including a digital camera with a lens assembly (Fig. 7 and Fig. 8; paragraph [0002]) comprising: (a) analyzing pixels within one or more acquired digital images according to probability determinations that such pixels correspond to blemish artifacts (paragraphs [0011]-[0014], "blemish test" and "blemished pixel"); (b) determining whether a threshold distribution of blemish artifacts is present within one or more of said digital images (paragraph [0054], "contemplated for heavy blemish situations"). However, Barkan does not disclose the last claim limitation. Instead of Barkan, Newman discloses indicating a need for service (paragraph [0005]).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Newman's invention in Barkan's invention to provide operable calibrator to carry out a blemish test as suggested by Barkan (paragraph [0013]).

Regarding claim 2, Barkan further discloses one or more acquired images comprise one or more calibration images (Fig. 4; paragraph [0060]).

Art Unit: 2624

Regarding claim 3, Barkan discloses said threshold distribution being determined based upon an analysis of the ability of an automatic blemish correction module of said digital image acquisition system to reasonably correct such blemishes within said images (Fig. 5, "rule out tolerance errors"; paragraph [0055]).

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barkan (US 2003/0174902) in view of Newman et al. (US 2001/0039804), and further in view of Webb et al. (US 5,216,504).

Regarding claim 7, Barkan and Newman disclose all the previous claim limitations except the claim limitation recited in claim 7. However, Webb discloses one or more acquired images being acquired with specific acquisition setting comprising one or more of aperture, shutter speed, sensitivity, and subject matter (col. 7, lines 2-4, "shutter speed of 1/120 of a second").

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Newman's invention and Webb's invention in Barkan's invention to provide a automatic precision calibration system as suggested by Webb (col. 2, lines 14-15).

Regarding claim 8, Webb further discloses said specific acquisition settings being automatically determined in a specific calibration mode on said digital image acquisition system (abstract, "automated calibration mode wherein it is independent of human input").

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barkan

(US 2003/0174902) in view of Newman et al. (US 2001/0039804), and further in view of Anderson (US 6,002,436).

Regarding claim 9, Barkan and Newman disclose all the previous claim limitations except the claim limitation recited in claim 9. However, Anderson discloses analyzing is based on defined time interval since last said analyzing (col. 3, lines 8-17, "timelapse sequence" and "time interval").

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Newman's invention and Anderson's invention in Barkan's invention to provide a automatic timelapse capture as suggested by Anderson (col. 1, lines 56-58).

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barkan (US 2003/0174902) in view of Newman et al. (US 2001/0039804), and further in view of Rice et al. (US 2003/0036860).

Regarding claim 9, Barkan and Newman disclose all the previous claim limitations except the claim limitation recited in claim 9. However, Rice discloses analyzing being based on defined in relations with change of lenses (paragraph [0006], "It is often desirable to compare imaging data taken under different imaging conditions - e.g., with a different lens").

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to use Newman's invention and Rice's invention in Barkan's invention to provide operable calibrator to carry out a blemish test as suggested by Barkan (paragraph [0013]).

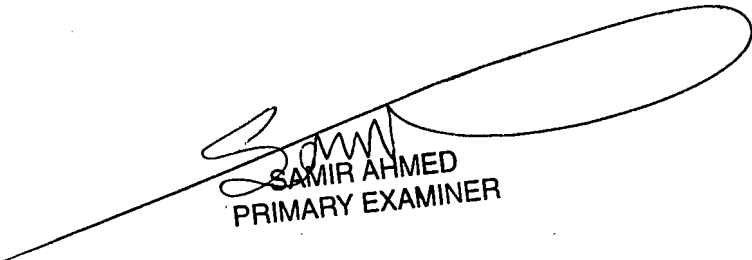
Conclusion

11. No claims are allowed.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Wahnkyo Lee whose telephone number is (571) 272-9554. The examiner can normally be reached on Monday - Friday (Alt.) 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John W. Lee
(AU 2624)



SAMIR AHMED
PRIMARY EXAMINER